

Discussion of Rejection under 35 U.S.C. § 103(a)

Claims 12 to 14, 16, 19 to 23, 26 and 29 to 31 are newly rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Denny (*J. Med Chem*, Vol. 22, (2) pp. 134-150, 1979) and Atwell (*J. Med Chem*, Vol. 10, (4) pp. 706-713, 1967).

This rejection is traversed and reconsideration and withdrawal thereof are respectfully requested for the reasons given hereinbelow.

While acknowledging that Atwell does not teach meta-substituted pyridine rings (i.e., compounds wherein the equivalent to Applicants' "A" is pyridine), the Examiner asserts that "Atwell teaches the equivalence of the meta and para substituted equivalent to A when A is phenyl and then teaches that A is also pyridine." (Office Action, pages 4 to 5). The Examiner points to Atwell's Table IV (compounds VI-IX) for a showing of this alleged equivalence. (Id. at 4).

Contrary to the Examiner's assertion, Atwell does not teach the equivalence of "meta and para substituted equivalent to A when A is phenyl." In fact, Atwell states that "[i]n an attempt to examine the effect of reducing charge separation the quaternary salts from tere- and iso-phthaloyl derivatives of 5- and 7-aminoquinoline were examined (VI-X, Tables III and IV), but no active compounds were found." (Atwell at 707, emphasis added). Atwell's meta-substituted phenyl compounds referenced by the Examiner were not active, which rebuts the Examiner's proposition that Atwell teaches an "equivalence" of the meta- and para-substituted phenyl components of the compounds described by Atwell.

Upon a fair reading of Atwell as a whole, one skilled in the art would have no reasonable expectation that compounds having a meta-substituted pyridyl group at the equivalent position as Applicants' A group would be biologically active. Therefore, the compounds of claims 12 to 14, 16, 19 to 23, 26 and 29 to 31 would not have been obvious over Atwell.

As for Denny, the Examiner has provided no reasons, arguments, or evidence why the present claims would be obvious over the disclosure of Denny, either alone or in combination with Atwell. Consequently, the Examiner has failed to establish that the rejected claims are *prima facie* obvious over Denny, as is required for a proper rejection under 35 U.S.C. § 103(a).

Accordingly, claims 12 to 14, 16, 19 to 23, 26 and 29 to 31 would not have been obvious to a skilled artisan over the applied references Atwell or Denny, either alone or in combination, and therefore, the rejection of said claims under 35 U.S.C. § 103(a) should be withdrawn.

Copending Application

Applicants remind the Examiner of copending United States Patent Application Number 10/993,637, and respectfully request the Examiner to review the ongoing prosecution of said application, including the Notice of Allowance issued September 22, 2008.

There being no remaining issues, this application is believed in condition for favorable reconsideration and early allowance, and such actions are earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

October 27, 2008

Date

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sanofi-aventis Docket No. FRAV2003/0004 US NP